



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

CURTIS SIMMONS
Plaintiff,

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vs

CIVIL ACTION NO: 9:05-CV-82

HOUSTON COUNTY, TEXAS, *et al.*,
Defendants.

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MEMORANDUM ORDER
ADOPTING MAGISTRATE'S REPORT AND DISMISSING CASE

Pursuant to 28 U.S.C. § 636(b)(1)(A) and the Local Rules for the United States District Court, Eastern District of Texas, Appendix B, the Court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration and recommended disposition of case-dispositive pretrial matters and proceedings. Pending before the Court are Defendants Houston County, Texas, Cindy Garner, and Joe Hamlin's *Rule 12(b)(1) Motion to Dismiss for Want of Subject Matter Jurisdiction* [Clerk's doc. #4]; *Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim* [Clerk's doc. #5]; and *Rule 12(e) Motion for a More Definite Statement* [Clerk's doc. #6].

On February 10, 2006, Judge Giblin issued a *Report and Recommendation* on the Defendants' motions [Clerk's doc. #36]. He recommended that the Court grant Defendants' *Rule 12(b)(1) Motion to Dismiss for Want of Subject Matter Jurisdiction*, in part, and that the Court further grant Defendants' *Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim* as to all of

Plaintiff's claims. He finally recommended that the Court deny the Defendants' *Rule 12(e) Motion for a More Definite Statement*.

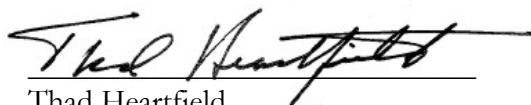
To date, the parties have not filed specific objections to the magistrate judge's report in accordance with 28 U.S.C. § 636(b)¹. Accordingly, having reviewed Defendants' motions, the Plaintiff's responses, and Judge Giblin's *Report and Recommendation*, the Court agrees with the magistrate judge's findings and recommended disposition.

The Court, therefore, **ORDERS** that the *Report and Recommendation on Motions to Dismiss* [Clerk's doc. #36] is **ADOPTED**. Specifically, pursuant to the magistrate judge's report, the Court **ORDERS** as follows:

-the Defendants' *Rule 12(b)(1) Motion to Dismiss for Want of Subject Matter Jurisdiction* [Clerk's doc. #4] is **GRANTED** as to Plaintiff's Title VII claims and state common law claims; - the Defendants' *Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim* [Clerk's doc. #5] is **GRANTED** with regard to all of Plaintiff's claims: specifically those alleged under 42 U.S.C. § 1983, and, alternatively, Plaintiff's Title VII claims and state common law claims; and -that Defendants' *Rule 12(e) Motion for a More Definite Statement* [Clerk's doc. #6] is **DENIED**.

The Court finally **ORDERS** that Plaintiff's *Original Complaint* [Clerk's doc. #1] and all claims asserted therein are **DISMISSED**, in their entirety, with prejudice. All motions not addressed herein are denied as **MOOT** and this matter shall be closed.

SIGNED this the 24 day of **February, 2006**.



Thad Heartfield
United States District Judge

¹ "Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court." 28 U.S.C. § 636(b).